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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,161	06/26/2001	William J. Boyle	ACS-56718 (26381)	5198

24201 7590 10/06/2003

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EXAMINER

DAGOSTINO, SABRINA

ART UNIT

PAPER NUMBER

3743

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/894,161

Applicant(s)

BOYLE ET AL.

Examiner

Sabrina Dagostino

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1- 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fillmore et al. (US 2002/0000253 A1) in view of Watson (4801292).

The applicant discloses a flush tool for medical catheters comprising a first tube, a flush tube, and a first and second valve. Fillmore et al. discloses almost the same exact invention except that it doesn't disclose a second valve. Fillmore et al. discloses a medical flush valve having that includes a housing having proximal and distal ends and defining a passageway therethrough. An access port of the housing defines a bore configured for selective communication with the passageway. The valve apparatus includes a hollow insert which is disposed in the distal end of the passageway and includes a portion that is disposed beneath the bore defined by the access port. The housing additionally includes retention tabs on the distal end that engage corresponding openings in a fitting that is attached to the housing and includes a nipple slidably received within the insert. A seat on the nipple contacts a flange of the insert to form a substantially leak proof connection. A substantially identical fitting engages corresponding retention tabs on the access port and is configured to slidably receive a plunger,

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disposed in the bore, within passage defined by the nipple. A sealing ring disposed in the bore around the plunger is compressed by the nipple and acts to prevent leakage past the plunger. The plunger is biased upwards out of the passageway, defined by the housing, by the resilience of the insert, so that fluid can readily flow between the proximal and distal ends of the passageway. Attachment of a medical device to the fitting on the access port pushes the plunger downward so that a flushing passage defined by the plunger establishes *fluid communication between the medical device and the proximal end of the passageway, thereby permitting introduction of material from the medical device into the proximal end of the passageway, and to another medical device in fluid communication therewith*. Upon detachment of the medical device, the resilience of the insert moves the plunger upward in the bore *so that fluid communication between the flushing passage and the proximal end of the passageway is disestablished, and fluid communication between the proximal and distal ends of the passageway is reestablished*. Watson discloses a medical pump for debris collection having two valves and means for flushing. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Fillmore et al such that it had a second valve for the purpose of flow as taught in Watson.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sabrina Dagostino whose telephone number is 703-306-3485.

The examiner can normally be reached on M-F 7-3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 703-308-0101. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.

Sabrina Dagostino  
Examiner  
Art Unit 3743

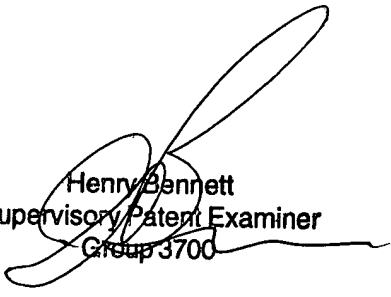
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October 1, 2003



Henry Bennett  
Supervisory Patent Examiner  
Group 3700